

Smart enforcement tool allows environmental violators to offset fines through brownfields reuse

As part of its Supplemental Environmental Project nonrule policy, IDEM's Office of Enforcement now considers violators' proposals that would help communities address their brownfield properties rather than pay total cash penalties to the state.

The brownfields redevelopment option was added to the list of six other typical categories of permissible SEPs: pollution prevention, pollution control, environmental restoration, public awareness, environmental audits and comprehensive environmental training projects.

As part of IDEM's mission to protect and improve the environment in Indiana and serve citizens, enforcement staff address environmental violations with timely, quality enforcement actions that achieve compliance, result in an improved environment and deter future violations. Through SEPs, the state obtains added relief because the projects prevent or remediate the adverse public health or environmental consequences of pollution.



This abandoned gas station has been a "landmark" brownfield in one of Indiana's small northern towns since 1984. IDEM is currently considering a supplemental environmental project that could bring appeal and value back to this property.

In an enforcement case, IDEM offers respondents the opportunity to do such environmentally beneficial projects and reduce the size of the final cash penalty. A violator's commitment to undertake an environmentally beneficial project is afforded by a case that wouldn't otherwise be required by law.

IDEM's civil penalty policy calls for fines to be based on certain criteria including the seriousness of the violation. As a rule of thumb, a

settlement is acceptable if it recovers the economic benefit gained from noncompliance plus 20 percent of the base penalty. The remainder of the penalty may be offset by a ratio determined by the environmental and health benefits offered by the project. Activities that are required by a statute or a rule are not considered acceptable SEPs. Since brownfields redevelopment is a voluntary action, most activities involved would be eligible and are given favorable offset ratios.

SEPs create opportunities in the context of an enforcement action to improve the environment above and beyond basic compliance. They help protect human health and the environment. Everyone benefits, and when used in conjunction with a brownfields project, SEPs can help in the redevelopment of abandoned, idle and underutilized properties.

For further information on the use of SEPs in brownfields development, contact Kyle Hendrix of IDEM's Brownfields Program, or IDEM's Office of Enforcement at (800) 451-6027.

Current Activities

Office merger positive move

IDEM has combined its Offices of Solid and Hazardous Waste Management and Environmental Response into one – the Office of Land Quality.

The merger allows for a more holistic approach to land quality issues. It pulls together various programs such as Resource Conservation and Recovery, Solid Waste Facilities and Permitting, Superfund and State Cleanup, Underground Storage Tanks, Voluntary Remediation and, of course, Brownfields.

The Brownfields Program has merged with the Site Investigation Program, which means six additional staff may participate in brownfield activities. But their primary responsibility is to assess sites under the Superfund Program for potential hazardous waste contamination. Through their action, these sites may be listed on the Superfund National Priorities List or referred to IDEM's Brownfields or State Cleanup Programs or another federal program.

Because Brownfields and Site Investigation staff's main activities are to investigate and assess sites, we will learn from each other and increase efficiency.

The Brownfields Program has moved from IDEM's Shadeland Ave. location to the Indiana Government Center North, downtown Indianapolis at 100 N. Senate Ave. Our mailing address is the same: P.O. Box 6015, Indianapolis, IN 46206-6015, and our new phone numbers are listed on the back page of the bulletin.

Issues

Infrastructure challenges top the list

The brownfields definition cites actual or perceived environmental contamination as the deterrent to reusing industrial and commercial property. But infrastructure is reportedly the cause of more deals falling through than any other issue.

In conjunction with the environmental issues, deteriorating or obsolete roads and utilities are often prevalent in the locations of many brownfields.

Assessing the need for infrastructure is an important first step in brownfields development. The need will depend upon the project type and size, as well as characteristics of the user. A developer also must anticipate future needed infrastructure and regulations that govern infrastructure. Often only on-site infrastructure, such as curbs, side walks, sewer and water lines, and energy and communication lines, are considered. In fact, off-site infrastructure, including road widening, addition of turn lanes and traffic signals and extension of utilities, is equally as important.

Common infrastructure problems, such as sewer and water mains relocation or replacement, street light removal or replacement, and demolition and historic preservation, require proper planning and authority. The players to involve during the planning process may include economic development, zoning, engineering, public works or utilities, buildings and inspections, private utilities and local and state environmental departments. Several different permits and approvals may be required.

The greatest challenge with infrastructure is the cost. Typically, the developer pays for the on-site and some of the off-site infrastructure, even if it is to become public property. The government may pay for some improvements if substantial public good can be demonstrated.

When financing is addressed up front as part of the capital improvement plan and stakeholders work together, the redevelopment project should be able to withstand the infrastructure challenges. The deal will likely not fall through.

Questions and Answers

Q: How can a private developer take advantage of the state's brownfields redevelopment program?

A: By partnering with a governmental unit, such as a city, town, county, redevelopment or housing authority, or public organization. This partnership allows both parties to capitalize on the many resources the state has to offer, particularly the Environmental Remediation Revolving Loan Fund. Grants from this fund are awarded for site assessment activities, while loans are approved for primarily demolition and remediation. Successful development can mean the creation of new jobs, a stronger tax base for the city or town, enhanced economic stability for the private developer and a cleaner environment for all.

Community Initiatives

Rural communities pound out first half of success story

Information provided by Richard Ullrich, Southern Indiana Rural Development Project

Efforts to help develop brownfields in southern Indiana's rural communities got a recent boost from state funding.

The Southern Indiana Rural Development Project, which has a mission to teach small communities about the resources available to redevelop underutilized sites, sponsored the selection of pilot projects – Elnora in Daviess County and Rising Sun in Ohio County – and lead the way to those communities receiving Indiana Brownfields Site Assessment Grants.

SIRDP is a nonprofit consortium of 34 rural counties. Its mission is to develop and implement realistic strategies to improve the economy and general quality of rural life. Upon learning of the state's fund for brownfields, SIRDP had a special interest in knowing what this fund might mean for southern Indiana. There was great concern among task force members that smaller communities did not know about the program and were not in a position to take advantage of it.

In response to this issue, the SIRDP designed its Rural Brownfields Program and in August 1998 received a \$10,000 Community Planning Fund matching grant from the Indiana Department of Commerce. Hoosier Energy, GRW Engineering, Handex Engineering, SESCO Engineering, Schneider Engineering, and Quality Environmental Professionals Inc. provided the matching funds.

The first phase of the program was a scan of the 34 SIRDP counties. This involved looking for

communities that had possible rural brownfield sites and an interest in developing them. Elnora and Rising Sun were selected for an in-depth analysis of their brownfields redevelopment potential.

Once the communities were selected and agreed to participate, SIRDP acted as staff and consultant in planning for reuse of the sites and in applying for Indiana Brownfields Site Assessment Grants. SIRDP also enlisted qualified engineering firms to make the initial review of the site and to help apply for the grant. For Elnora, the engineering firm was Quality Environmental Professionals Inc. For Rising Sun, the firm was Brownfields Development Group.

The second phase of the program involved working with landowners, local leaders and residents in both communities to begin the redevelopment process. Then SIRDP, on behalf of the communities, submitted applications to the Indiana Development Finance Authority in August 1999 and was awarded site assessment grants with a combined total of more than \$20,000 in September.

Once the results of the assessments are known, SIRDP hopes to continue working with community leaders in Elnora and Rising Sun all the way through to the grand opening of some new business at the former brownfield sites.

For more information, contact SIRDP at (800) 816-0019.

The Brownfields Program Web site has a new look!

An improved design makes it easy to access the brownfield tools you need. It's all just a click away from the Brownfields Program home page. Check out these highlights:

- **Brownfields Redevelopment Resource Guide** compiled by the Indiana Interagency Brownfields Task Force. This comprehensive how-to guide includes information from eight different agencies that offer technical, planning and/or financial support in Indiana. It's one-stop shopping for brownfields redevelopment assistance.

- **Application packet** for the new Abandoned Tank Community Assistance Program. Available for the spring 2000 deadline, the packet includes a description of the program, explanations of limitations and requirements, and the two-page application.

- **Forms and applications:**
 - Brownfields Environmental Assessment
 - Grant applications
 - Loan applications
 - Abandoned Tank Community assistance program application...

- Frequently asked questions
- Glossary of brownfields terms
- Links to other resources



More Brownfields Site Assessment Grant recipients announced

On September 21, eight communities were awarded Indiana Brownfields Site Assessment Grants (see box).

Though this fifth grant round received fewer applications than the previous two, there was a wide variety of proposed projects.

Cicero will be investigating a former gasoline underground storage tank at one of its firehouses, while LaPorte will be focusing its efforts on four properties (a former landfill, an industrial dump, a foundry, and a water heater manufacturer) near the downtown area. The other communities' projects include a former grain elevator, landfill, hospital, gas station, small engine repair/hardware store, power plant and manufacturing facility, and salvage yard.

Future uses vary as much as the past uses of these properties. In Washington, parts of a salvage yard will be used for Habitat For Humanity housing. Culver Hospital in Crawfordsville will be used for temporary housing for families in crisis, assisted senior housing, and office

September 1999 Brownfields Site Assessment Grant Awards

Political Subdivision	Amount
Town of Cicero	\$ 4,050
City of Crawfordsville	\$ 28,338
Town of Elnora	\$ 17,434
Town of Kewanna	\$ 22,618
City of Rising Sun	\$ 13,000
City of Washington	\$ 12,130
City of LaPorte	\$ 50,000
City of Warsaw	\$ 15,023
TOTAL	\$162,593

space. The Gibson Hardware Building in Rising Sun may be used for retail gallery space, artist studios, and apartments, while multi-acre industrial property in LaPorte may have multi-use as an industrial park and green space.

Kewanna's project includes a new approach to abandoned gas stations. Typically with

an abandoned gas station site, the largest redevelopment barrier to overcome is that the underground storage tanks are still in the ground. Completing a site assessment for an abandoned gas station is helpful, but the site assessment usually confirms what is widely anticipated – the tanks leaked. A better approach would be to close the tanks and then conduct a site assessment. Kewanna's approach is to secure a forgivable loan for closing the tanks, then use the grant money to pay the closure sampling costs as well as an initial site characterization.

In this round, a total of 10 applications were reviewed by Indiana Development Finance Authority, Department of Commerce and IDEM.

EPA extends funding opportunity

The deadline for grant applications in the next round of EPA Brownfields Assessment Demonstration Pilot grants is February 16, 2000.

The U.S. Environmental Protection Agency has awarded grants for more than 300 Brownfields Assessment Pilots nationwide, 58 of them in Region 5. The pilots program is designed to empower states, communities, tribes and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up and develop sustainable properties. EPA has put cooperative agreements in place that test brownfield assessment models, direct special efforts that remove regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the federal, state, tribal and local levels.

Pilots will be funded for up to \$200,000 over two years. In fiscal year 2000, an additional \$50,000 may be awarded to an applicant to assess the contamination of brownfield sites that are used for greenspace purposes, (parks, trails, playgrounds, etc.). Newly revised guidelines are available on EPA's Brownfields home page: www.epa.gov/brownfields. Or call the Superfund Hotline at (800) 424-9346. You may also contact Brownfields Program staff, or EPA at (312) 353-3161.

Feb. 4, 2000

Next grant deadline



Site Highlight

Wayne County joins forces with private consulting firm

Wayne County was anxious to determine if there was any contamination at the Swayne Robinson & Co. foundry in Richmond. The county had been approved for a Brownfield Environmental Assessment by the Indiana Department of Environmental Management, and IDEM had arranged for the U.S. Environmental Protection Agency to bring its soil-boring rig from Chicago to the site to take subsurface soil and ground water samples. However, due to a heavy workload, there was a two-month waiting list for the EPA equipment. Not wanting to wait that long, the Wayne County commissioners contracted with a local environmental consulting firm to take the samples in coordination with IDEM. The contractor was able to be on-site within a few weeks, lessening the amount of time it would take to receive results. IDEM staff were on-hand to oversee the sampling and to prepare the samples for shipping and send them to the EPA-contract labs for analysis.

“We strongly encourage public-private partnerships,” said IDEM Brownfields Program Chief Dana Reed Wise. “In the Swayne Robinson case, the county obtained quicker results by contributing funds. Anytime a public entity can contribute financially or in-kind, it fosters better public-private relationships and allows IDEM to redistribute its limited funding to others.”

In Brief

Regional states and EPA meet face to face on issues

IDEM hosted an EPA Region 5 all-states gathering on brownfields on August 24-25.

State representatives from Illinois, Michigan, Minnesota, Ohio, Wisconsin, Indiana and the U.S. Environmental Protection Agency shared successes and learned from each other how to encourage brownfields redevelopment. Among the topics discussed were institutional controls, ground water issues, voluntary remediation programs and the EPA Brownfields Assessment Demonstration Pilots.

One of the many issues facing the states in the region is the difficulty of enforcing institutional controls, which are needed in some cases to restrict the use of a specific site. For example, if contamination below a certain level exists on a property, it may be redeveloped without remediation for industrial use only, or it may be redeveloped only if ground water is not used. To ensure future property owners are aware of the restrictions and the property is never developed for inappropriate uses, the restriction should actually be stated on the deed to the property. It is important that

property owners comply with these restrictions to protect human health.

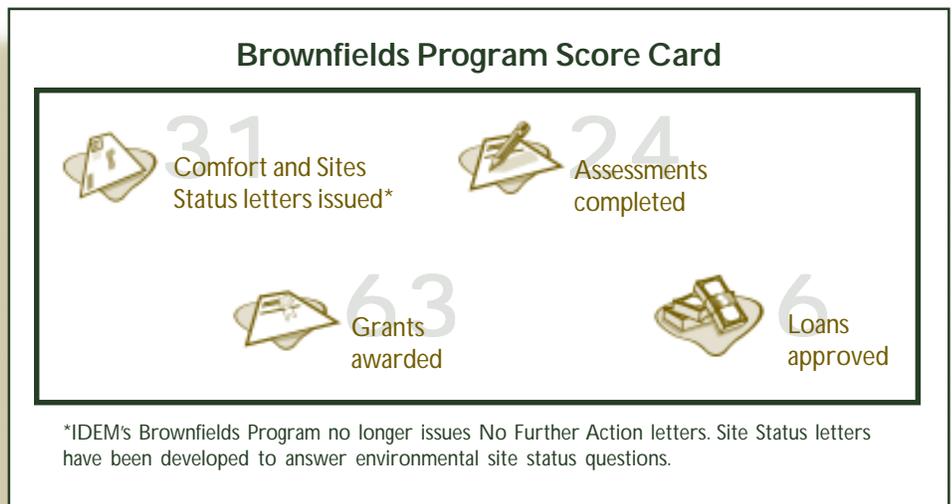
A highlight of the meeting was EPA’s announcement that its Brownfields Assessment Demonstration Pilots program has been renewed and that old pilots may be eligible for additional funding. (More details on pg.4.)

New federal funding on horizon

Congress is currently considering the passage of a bill that will generate \$9.5 billion in bond authority and provide communities with zero-interest loans with principals due in 15 years. This new financing tool, called Better America Bonds, is a component of the Clinton administration’s Livability Agenda, and could be implemented as early as January 2000.

The bonds could be used to preserve open space, protect water quality and clean up brownfield sites.

The authority to use Better America Bonds will be distributed directly to communities through a competitive process. The program will provide \$1.9 billion per year for five years. Communities will have access to zero-interest financing for smart growth projects because investors who buy these 15 year bonds will receive tax credits in lieu of interest.





Brownfields Bulletin is published quarterly by the Indiana Department of Environmental Management to inform local government officials, business representatives and interest groups about brownfields redevelopment initiatives and success stories from within and beyond the state.

A brownfields site is an industrial or commercial property that is abandoned, inactive or underutilized due to actual or perceived environmental contamination.

IDEM's overall mission is to make Indiana a cleaner, healthier place to live. IDEM's brownfields initiative helps communities remove barriers for sustainable growth.

Comments and ideas are welcome; e-mail IDEM Brownfields Program Chief Dana Reed Wise. To get on the mailing list, call (800) 451-6027, press 0 and ask for ext. 3-1044, or call (317) 233-1044.

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Who Can Help

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www.state.in.us/idem/olq/brownfields

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